

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2007

2007 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

PUBLIC LAW 1 – HOUSE ENROLLED ACT 1084 – EFFECTIVE MARCH 30, 2007

TECHNICAL CORRECTIONS – Makes corrections to several sections of the Indiana Code.

PUBLIC LAW 5 – SENATE ENROLLED ACT 41 – EFFECTIVE JUNE 29, 2007

COMMISSION ON COURTS – Amends IC 33-23-10-8 – Extends the expiration date of the commission to June 30, 2011.

PUBLIC LAW 6 – SENATE ENROLLED ACT 96 – EFFECTIVE JULY 1, 2007

UNITED STATES STEEL OR FOUNDRY PRODUCTS – Amends IC 5-16-8 – Requires contracts for public works projects to contain a provision that if any steel or foundry products are to be used or supplied, only steel or foundry products made in the United States shall be supplied.

PUBLIC LAW 9 – SENATE ENROLLED ACT 163 – EFFECTIVE JULY 1, 2007

LOW SPEED VEHICLES – Amends IC 9-13-2-94.5 – Removes the maximum weight and seating capacity restrictions for low speed four wheeled vehicles with a maximum speed of thirty-five (35) miles per hour.

PUBLIC LAW 17 – HOUSE ENROLLED ACT 1145 – EFFECTIVE JULY 1, 2007

SANITARY DISTRICTS – SECOND CLASS CITIES – Amends IC 36-9-25-3 – States that a Sanitary District Board consists of not less than three (3) but not more than five (5) commissioners in second class cities that have established a department of sanitation. This amendment does not apply to second class cities in Lake or LaPorte counties.

PUBLIC LAW 26 – HOUSE ENROLLED ACT 1434 – EFFECTIVE JULY 1, 2007

DRUG FREE COMMUNITIES FUND - Amends IC 5-2-11-5 – Requires a county council to allocate twenty-five percent (25%) of the county's drug free communities fund to persons, organizations, agencies, and political subdivisions to provide services and activities based on the comprehensive drug free communities plan submitted by the local coordinating council and approved by the State Commission for a Drug Free Indiana.

PUBLIC LAW 39 – HOUSE ENROLLED ACT 1595 – EFFECTIVE JULY 1, 2007

NORTHWEST INDIANA REGIONAL PLANNING COMMISSION (NIRPC) – Amends IC 36-7-4-1210.5, IC 36-7-7.6 – Adds IC 36-7-7.6-19 – Increases the number of executive board members. Allows any local revenue to be used as a participating county's share of the NIRPC budget. Allows for NIRPC to make loans and issue notes.

PUBLIC LAW 40 - HOUSE ENROLLED ACT 1623 – EFFECTIVE JULY 1, 2007

HIGHWAY WORKSITE ZONE JUDGMENTS – Amends IC 9-21-5-11, IC 9-21-6-3, IC 9-21-8-55 and IC 34-28-5-5 – Adds IC 9-21-4-20 and IC 9-21-8-56 – Establishes higher penalties for speed limit infractions in a worksite zone. States that infraction judgment fines collected under IC 9-21-5-11 shall be transferred to the Indiana Department of Transportation.

PUBLIC LAW 47 – SENATE ENROLLED ACT 123 – EFFECTIVE JULY 1, 2007

FIRE PROTECTION TERRITORIES – Amends IC 36-8-19 – Allows townships to adopt a resolution to participate in or withdraw from a fire protection territory.

PUBLIC LAW 48 – SENATE ENROLLED ACT 129 – EFFECTIVE JULY 1, 2007

PUBLIC SAFETY EMPLOYEES – MEET AND CONFER – Adds IC 36-8-22 – Requires cities and towns with a population of 7,000 or more to meet and confer with representatives of the city or town's full time police or fire department employees concerning pay issues or conditions of employment. Prohibits police and fire employees in cities and towns from engaging in a strike against the city or town.

PUBLIC LAW 51 – SENATE ENROLLED ACT 276 – EFFECTIVE APRIL 25, 2007

WAGE PAYMENTS – Amends IC 22-2-5-1 – Adds IC 22-2-5-0.5 – Requires the payment of wages to employees not more than ten (10) business days after he/she has made a claim for such wages. Defines a business day as a day other than Saturday, Sunday or legal holiday.

PUBLIC LAW 53 – SENATE ENROLLED ACT 315 – EFFECTIVE JULY 1, 2007

INTELLIGENT TRANSPORTATION SYSTEMS FOR HIGHWAYS – NONCODE – Requires the Indiana Department of Transportation to perform a feasibility study for integrating intelligent transportation systems into Indiana's highway system.

PUBLIC LAW 70 – HOUSE ENROLLED ACT 1742 – EFFECTIVE JULY 1, 2007

NORTHWEST INDIANA REGIONAL BUS AUTHORITY – Amends IC 36-9-3 – Adds IC 36-9-3-3.5 – Requires LaPorte County or Michigan City to become a member of the Authority if the fiscal body of the county or city adopts a resolution authorizing membership.

PUBLIC LAW 85 – SENATE ENROLLED ACT 445 – EFFECTIVE JULY 1, 2007

NOTARIES – Amends IC 33-42-2 – Adds IC 33-42-2-10 – Requires a notary public who is not an attorney who advertises as a notary public to include a disclosure statement in the advertisement that he/she is not an attorney.

PUBLIC LAW 88 – HOUSE ENROLLED ACT 1193 – Effective JULY 1, 2007

WASTEWATER UTILITY – SALES TAX EXEMPTION – Amends IC 6-2.5-5-12 – Adds IC 6-2.5-5-12.5 – Exempts all wastewater plant and expenses from sales tax.

PUBLIC LAW 97 – SENATE ENROLLED ACT 254 – EFFECTIVE APRIL 27 AND JULY 1, 2007

EVANSVILLE-VANDERBURGH COUNTY AIRPORT AUTHORITY – Amends IC 8-22-3.5-9 – Adds IC 8-22-3-6.5 – Allows the Authority and surrounding counties to enter into cooperative agreements involving any functions of the Authority.

PUBLIC LAW 113 – SENATE ENROLLED ACT 562 - EFFECTIVE JULY 1, 2007

CEMETERIES – Amends IC 23-14-41 and IC 23-14-57 – Adds IC 23-14-41-7 and IC 23-14-58.5 – Changes the laws dealing with consent for the removal of the remains of a deceased person.

PUBLIC LAW 117 – HOUSE ENROLLED ACT 1278 – EFFECTIVE JULY 1, 2007

LOCAL GOVERNMENT INVESTMENT POOL – Adds IC 5-13-9-11 – Creates a local government investment pool within the office and custody of the Treasurer of State. Permits cities and towns to invest in such pool. Requires certain daily and monthly reports be provided by the Treasurer of State.

PUBLIC LAW 118 – HOUSE ENROLLED ACT 1287 – EFFECTIVE JULY 1, 2007

JURY SELECTION – Amends IC 33-28-5, IC 33-33-87-17, IC 33-35-5-5, IC 33-37-10-1, and IC 33-37-11-3 – Changes the laws dealing with the selection of a jury. Allows a city or town to adopt an ordinance to allow payment of juror parking fees instead of paying for mileage. Provides that city jurors be selected in the same manner as other jurors.

PUBLIC LAW 128 – SENATE ENROLLED ACT 113 – EFFECTIVE JULY 1, 2007

TOWN PARK BOARDS – Amends IC 36-10-3-4 – Adds IC 36-10-3-4.1 – Provides that the town council appoint members of the board instead of the town council president. Allows town councils to waive the political party affiliation requirements of park board members.

PUBLIC LAW 132 – SENATE ENROLLED ACT 192 – EFFECTIVE JULY 1, 2007

CITY/TOWN USER FEE FUND – Amends IC 5-2-8-2 – Allows school corporation police officers to claim local law enforcement continuing education fees from the city/town user fee fund.

PUBLIC LAW 133 – SENATE ENROLLED ACT 211 – EFFECTIVE JULY 1, 2007

PUBLIC WORKS PROJECTS – BOND OR CERTIFIED CHECK – Amends IC 36-1-12-4.5 – Requires a bond or certified check in an amount determined by the governing board on all public works projects estimated to be more than \$200,000. Such bond or certified check may not be set at more than ten percent (10%) of the contract price.

PUBLIC WORKS PROJECTS – PAYMENT BOND – Amends IC 36-1-12-13.1 – Requires the contractor to execute a payment bond in an amount equal to the contract price if the cost of the project is estimated to be more than \$200,000. Such payment bond may be required on projects estimated to be not more than \$200,000.

PUBLIC WORKS PROJECTS – RETAINAGE – Amends IC 36-1-12-14 – Requires retainage on public works projects in excess of \$200,000. Requires retainage of no more than ten percent (10%) or less than six percent (6%) on projects up to fifty percent (50%) complete or not more than five percent (5%) or less than three percent (3%) where retainage is withheld on an entire project.

PUBLIC LAW 148 – SENATE ENROLLED ACT 561 – EFFECTIVE MAY 3 AND JULY 1, 2007

DEFERRED RETIREMENT OPTION PLAN (DROP) – Amends IC 36-8-8-18, IC 36-8-8.5, IC 36-8-10.5-7, and IC 36-8-15-19 – Adds IC 36-8-8.5-16.5 – Allows a firefighter who is a member of the 1977 plan to accrue more than twenty (20) years of prior service credits. Allows a member of the 1925, 1937 and 1977 plans to resubmit a disapproved election to enter the DROP before July 1, 2007. States that a member of the 1977 fund who retires because of disability more than twelve (12) months after he/she enters the DROP to choose whether to receive a benefit calculated as if he/she never enters the DROP or exited the DROP on the date the member retires because of the disability.

PUBLIC LAW 151 – HOUSE ENROLLED ACT 1092 – EFFECTIVE JULY 1, 2007

MILITARY FAMILY LEAVE – Adds IC 22-2-13 – Allows for unpaid leave of up to ten (10) days to be granted to a spouse, parent, grandparent, or sibling of a person ordered to active duty. Applies to cities and towns employing at least fifty (50) employees.

PUBLIC LAW 154 – HOUSE ENROLLED ACT 1424 – EFFECTIVE JULY 1, 2007

CERTIFIED TECHNOLOGY PARKS – Amends IC 36-7-32-11 and IC 36-7-32-12 – Provides that a certified technology park is subject to review by the Indiana Economic Development Corporation and must be recertified every four (4) years. States that a designation of a certified technology park may be terminated or rescinded for failure to comply with the terms of the agreement with the Indiana Economic Development Corporation.

PUBLIC LAW 155– HOUSE ENROLLED ACT 1739 – EFFECTIVE JULY 1, 2007

HANDGUN LICENSES – Amends IC 35-47-2-4 – States that a lifetime qualified or lifetime unlimited license may not be issued to a person who is a resident of another state.

PUBLIC LAW 156 – SENATE ENROLLED ACT 125 – EFFECTIVE JULY 1, 2007

COURT COSTS – Amends IC 33-37-2, IC 33-37-5-15, IC 35-38-1-18 and IC 35-38-2-3 – Allows court cost and fines to be suspended until the convicted person has completed all or part of his/her sentence. States that a court that has suspended such costs and fines has continuing jurisdiction over a person who has been convicted until such costs and fines are paid. Permits a court to enforce collection of such costs and fines through contempt proceedings or wage garnishment.

PUBLIC LAW 160 – SENATE ENROLLED ACT 412 – EFFECTIVE JULY 1, 2007

SOCIAL SECURITY NUMBERS – RECORDED DOCUMENTS – Amends IC 36-2-11-15 – States that the statement "I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)" be located at the conclusion of the instrument and immediately preceding or following the name of the person or governmental agency that prepared the instrument.

PUBLIC LAW 163 – SENATE ENROLLED ACT 568 – EFFECTIVE JULY 1, 2007

PUBLIC EMPLOYEES' RETIREMENT FUND (PERF) BENEFITS – Adds IC 5-10.2-5-42.4 – Provides a two percent (2%) cost of living adjustment for retired members of PERF. Also provides a thirteenth check for members at retirement based upon years of creditable service.

PUBLIC LAW 165 – HOUSE ENROLLED ACT 1027 – EFFECTIVE JULY 1, 2007

MINIMUM WAGE LAW – Amends IC 22-2-2-4 and IC 22-2-9 – States that every employer employing at least two (2) employees during a work week shall pay each of the employees in any work week beginning on or after June 30, 2007, wages of not less than the minimum wage payable under the Fair Labor Standards Act of 1938. Permits the State Labor Commissioner to take assignment of wages claims of less than six thousand dollars (\$6,000).

PUBLIC LAW 172 – HOUSE ENROLLED ACT 1427 – EFFECTIVE

PUBLIC RECORDS DISCLOSURE – Amends IC 5-14-3-4 – Allows cities and towns to keep confidential the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

PUBLIC LAW 177 – SENATE ENROLLED ACT 9 – EFFECTIVE MAY 8, 2007

FIREWORKS REGULATIONS – Amends IC 22-11-14-1 – Adds IC 22-11-14-10.5 – Allows a city or town to adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the city or town. The ordinance

- (1) may limit the use of consumer fireworks in the city or town;
- (2) may not be more lenient than a rule adopted by a state agency concerning the use of fireworks; and
- (3) may not limit the use of consumer fireworks:
 - (A) between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;
 - (B) between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
 - (C) between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

PUBLIC LAW 179 – SENATE ENROLLED ACT 103 – EFFECTIVE JULY 1, 2007

OPEN DOOR LAW – Amends and adds to IC 5-14-1.5, Amends IC 5-14-3-2, IC 5-14-3-4 – Adds IC 5-14-3-2.1, IC 8-1-2.2-31, IC 21-22-3-5, IC 21-25-3-8, IC 21-27-2-2 and IC 25-1-14 – Allows records relating to negotiations between the Indiana Economic Development Commission and a city or town to be considered confidential by the city or town. Exempts certain entities that provide goods and services to the State, County, or city or town from the Open Door Law and Access to Public Records Law. Provides that certain "serial meetings" are in violation of the open door law.

PUBLIC LAW 180 – SENATE ENROLLED ACT 128 – EFFECTIVE JULY 1, 2007

PUBLIC EMPLOYEES RETIREMENT FUND (PERF) – 1977 POLICE AND FIRE PENSION FUND – Amends and adds to IC 5-10-5.5 and IC 36-8-8 – Amends IC 36-8-10-19 – Allows appointed police and fire chiefs who are members of the 1977 fund to receive benefits under PERF. Makes several other changes concerning benefits.

PUBLIC LAW 182 – SENATE ENROLLED ACT 270 – EFFECTIVE JANUARY 1, 2008

E85 FUEL INCENTIVES – Amends IC 8-14-2-4 – Allows cities and towns to receive E85 incentive payments for using E85 fuel in qualified motor vehicles that may be fueled by E85.

PUBLIC LAW 183 – SENATE ENROLLED ACT 416 – EFFECTIVE VARIOUS DATES

PROPERTY TAX DEDUCTIONS – Amends IC 6-1.1-12 – Changes the filing deadlines for several property tax deductions and homestead credits.

PUBLIC LAW 184 – SENATE ENROLLED ACT 463 – EFFECTIVE JULY 1, 2007

ELECTRONIC TRAFFIC TICKETS – Adds IC 9-30-3-5.3 and IC 9-30-3-5.7 – Allows law enforcement officers to issue electronic traffic tickets to traffic offenders and transmit such tickets directly to a court.

PUBLIC LAW 188 – HOUSE ENROLLED ACT 1058 – EFFECTIVE JULY 1, 2007

VOLUNTEER FIRE DEPARTMENTS – SALE OR TRANSFER OF REAL OR PERSONAL PROPERTY TO – Adds IC 36-1-11-5.7 – States that notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of IC 36-1-11, a disposing agent of a political subdivision may sell or transfer:

- (1) real property; or
 - (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;
- without consideration or for a nominal consideration to a volunteer fire department for construction of a fire station or other purposes related to firefighting.

PUBLIC LAW 191 – HOUSE ENROLLED ACT 1425 – EFFECTIVE VARIOUS DATES

ABANDONED VEHICLES – Amends several sections of IC 9-22-1 and IC 9-22-5 – Repeals IC 9-22-1-10, IC 9-22-1-20, IC 9-22-1-22, IC 9-22-1-28 and IC 9-22-1-29 – Provides that a city or town that operates a storage yard under IC 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrapyard or salvage recycler if the market value of the vehicle is less than \$500 or \$750 if the city or town adopted an ordinance setting the market value at \$750. Removes the Bureau of Motor Vehicles from the process of disposing of abandoned vehicles. Permits all cities and all towns to dispose of abandoned vehicles. Requires proceeds from the sale of abandoned vehicles to be deposited in the city or town's abandoned vehicle fund.

PUBLIC LAW 195 – HOUSE ENROLLED ACT 1731 – EFFECTIVE JULY 1, 2007

PUBLIC PURCHASES – Amends IC 5-22-8-1, IC 5-22-8-2, IC 5-22-8-3 and IC 36-1-7-12 – Raises the bid threshold for public purchases from \$75,000 to \$150,000. Requires quotes to be obtained on all purchases between \$50,000 and \$150,000. Allows purchases under \$50,000 to be made in accordance with the city or town's small purchasing policy. Allows cities and towns to make purchases from any other governmental entity or under another governmental entity's referenced written contract if there is compliance with State purchasing laws by the original purchasing unit.

PUBLIC WORKS PROJECTS – Amends IC 36-1-12-5 – Allows for quotes to be taken by phone or fax machine for projects under \$25,000. Waives the seven (7) day waiting period under IC 36-1-12-5(b)(1).

PUBLIC LAW 196 – HOUSE ENROLLED ACT 1767 – EFFECTIVE JULY 1, 2007

PROPERTY TAX EXEMPTIONS – Amends several chapters and sections of IC 6-1.1 – Changes the laws dealing with exemptions of land pending construction of a building to be used for exempt purposes. Provides for exemptions for certain properties in Vermillion County.

PUBLIC LAW 198– SENATE ENROLLED ACT 461 – EFFECTIVE JULY 1, 2007

GIS MAPPING STANDARDS – Adds IC 4-23-7.3 – Creates a State Geographic Information Systems (GIS) Officer who will be responsible for implementing and enforcing state GIS data standards. Deletes reference to the intelenet commission in the disposal of property law in IC 5-22-22-4.5.

PUBLIC LAW 206 – SENATE ENROLLED ACT 247 – EFFECTIVE JANUARY 1 AND JULY 1, 2007
ELECTRONIC TRAFFIC TICKETS – See Public Law 184 for similar provisions.**PUBLIC LAW 208 – SENATE ENROLLED ACT 310 – EFFECTIVE JULY 1, 2007**

CERTIFIED MAIL – Amends IC 1-1-7-1 – States that if a law requires that notice be given or sent by registered or certified mail, a person may use any service of the U.S. Postal Service or any designated private delivery service that meets certain requirements.

PUBLIC LAW 211 – SENATE ENROLLED ACT 500 – EFFECTIVE JANUARY 1, 2008

UTILITY RECEIPTS TAX AND SALES AND USE TAXES – Amends IC 6-2.3-6-1 and IC 6-2.5-6 – Requires cities and towns, whose estimated quarterly utility receipts tax or monthly gross retail and use tax for the current year or average quarterly utility receipts tax for the preceding year or average monthly gross retail and use tax for the preceding year exceeds \$5,000, to pay such taxes monthly by electronic funds transfer or by delivery in person or by overnight courier.

PUBLIC LAW 214 – HOUSE ENROLLED ACT 1237 – EFFECTIVE JULY 1, 2007

SEATBELT VIOLATIONS – Amends IC 9-19-10-1 and IC 9-19-10-2 – Adds IC 9-19-10-3.1 – Prohibits city and town law enforcement departments from using seatbelt checkpoints to issue seatbelt citations. Requires all occupants in a motor vehicle to wear seatbelts with some exceptions.

PUBLIC LAW 215 – HOUSE ENROLLED ACT 1379 – EFFECTIVE JULY 1, 2007

COPY FEES – Amends IC 5-14-3-8 – States that the fee for copying documents may not exceed the greater of:

(1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

Limits the fee that can be charged for certifying a document to a fee of not to exceed five dollars (\$5).

PUBLIC LAW 219 – SENATE ENROLLED ACT 287 – EFFECTIVE VARIOUS DATES

BUDGETS, RATES AND LEVIES – Amends IC 6-1.1-17-5 – Allows all political subdivisions to adopt budgets, rates, and levies not later than September 30.

LOCAL GOVERNMENT APPEALS – Amends IC 6-1.1-18.5 – Eliminates appeals except for shortfalls, math and advertising errors, three year growth factor, and the appeal for being unable to carry out a city or town's duties.

PETITION AND REMONSTRANCE PROCESS – Amends IC 6-1.1-20-3.1 – Allows registered voters to participate in the process.

SHORTFALL APPEALS – Amends IC 6-1.1-18.5-12 – States that cities and towns can only file a shortfall appeal on or before December 31 of the calendar year immediately proceeding the ensuing calendar year.

PUBLIC LAW 220 – HOUSE ENROLLED ACT 1115 – EFFECTIVE JULY 1, 2007

STRAY DOGS – Amends IC 15-5-12-3 – States that the owner of a dog commits a Class D infraction if the owner allows the dog to stray from the owner's premises. Makes the offense a Class C infraction if the owner has a prior violation.

COYDOGS – Adds IC 15-5-12-3.5 – Defines coydog and sets out penalties for failing to properly control such animals.

PUBLIC LAW 224 – HOUSE ENROLLED ACT 1478 – EFFECTIVE VARIOUS DATES

TAX CONTROL BOARD – Amends IC 6-1.1-18.5-11 – Abolishes local government tax control board as of December 31, 2008.

HOMESTEAD DEDUCTIONS – Amends IC 6-1.1-12-37 – Sets homestead deductions at \$45,000 for 2007 taxes payable in 2008.

PUBLIC LAW 224 – HOUSE ENROLLED ACT 1478 – EFFECTIVE VARIOUS DATES – (Continued)

COUNTY BOARD OF TAX AND CAPITAL PROJECTS REVIEW – Amends IC 6-1.1-17, IC 6-1.1-18.5 and IC 6-1.1-20 – Adds IC 3-8-1-23.5, IC 3-11-2-12.8, IC 6-1.1-20-3.4, IC 6-1.1-29-1.5 and IC 6-1.1-29-1.5 – Creates a county board of tax and capital projects review in each county beginning January 1, 2009.

Requires all capital projects over seven million dollars to be reviewed by the county board. If a project is rejected, a petition/remonstrance process can be initiated to override the rejection. The board will include representatives from county and city government, schools, the county auditor and two (2) citizens elected by the voters.

Requires a capital projects plan to be adopted by city and town councils after January 1, and before October 1, 2009, and every two (2) years after. Places limits on the circuit breaker at two percent (2%) beginning in 2008 and three percent (3%) in 2010 on all non-homestead property.

CIRCUIT BREAKER RELIEF APPEAL BOARD – Adds IC 6-1.1-20.3 – Establishes a circuit breaker relief appeal board made up of the Director of OMB, the Commissioner of the DLGF, the Commissioner of the Department of Revenue, the State Examiner, and local elected officials recommended by IACT, the AIC, and the School Superintendents' Association. Allows a distressed political subdivision to appeal for relief from the circuit breaker limits to such board.

JUDICIAL SALARIES FEES – Amends IC 33-37-7-8 – States that the twenty-five percent (25%) of the funds retained by the city or town shall be prioritized to fund city or town court operations.

PUBLIC LAW 231 – HOUSE ENROLLED ACT 1738 – EFFECTIVE MAY 1 AND JULY 1, 2007
WATER RESOURCES – Adds IC 14-25-2-2.5 – Sets out procedures which must be followed when a person seeks to contract with the Natural Resources Commission for certain quantities of stream flow or the sale of water.

PUBLIC LAW 232 – HOUSE ENROLLED ACT 1774 – EFFECTIVE MAY 11 AND JULY 1, 2007
REGIONAL DEVELOPMENT AUTHORITY – Adds IC 36-3.5-7-28 and IC 36-7.6 – Allows for the establishment of not more than two (2) regional development authorities in economic growth regions designated by the Indiana Department of Workforce Development. Requires cities and towns to be members of such authority if the county becomes a member.

PUBLIC LAW 234 – HOUSE ENROLLED ACT 1001 – EFFECTIVE VARIOUS DATES
STATE BUDGET BILL – Sets the State budget at twenty six billion dollars over the next two (2) years. Provides for a refund of property taxes paid for a homestead in 2007 and an additional homestead credit in 2008.

PENSION OBLIGATION BONDS – Adds IC 5-1-14-15 – Permits cities and towns to issue debt to fund pension obligations of the 1925 and 1937 pension plans.

PENSION RELIEF FUND DISTRIBUTIONS – Amends IC 5-10.3-11-4.7 – Extends additional pension relief distributions for the 1925 and 1937 plans to January 1, 2011.

AUTOMATED RECORD KEEPING FEE – Amends IC 35-37-5-2 – Extends the seven dollar (\$7) automated record keeping fee to June 30, 2011.

UTILITY RECEIPTS TAX

A number of towns have failed to remit the Utility Receipts Tax to the Indiana Department of Revenue. We are aware that the officials of several municipal utilities believe that their receipts for the sale of utility services are exempt. However, only receipts from sewage and sewage service are exempt from the tax.

Where we have identified this failure, in an audit situation, we have included a written comment. In all cases, the comment following will be included in our reports:

"Generally, retail receipts from all utility services consumed within Indiana are subject to the utility receipts tax regardless of the point of generation or transmission across state lines. Receipts from the provision of mobile telecommunication service are subject to utility receipts tax to the extent that the receipts are sourced in Indiana pursuant to IC 6-8.1-15. However, gross receipts received by a political subdivision for sewage and sewage service are not subject to the tax."

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee."

ELECTED OFFICIALS – LEAVE POLICY

We have received questions concerning the authority (or need) for elected officials to be included in the municipality's vacation leave, sick leave, death leave, or other such leave policy.

Our audit position is that an elected official's compensation goes with the office. This means that the elected official receives his (or her) salary as long as the office to which the official was elected performs the duties and responsibilities of this office. Whether the elected official personally does the work, whether the elected official personally maintains office hours, or whether the elected official shows up at the office has no bearing on the official's right to be compensated. Keep in mind this relates only to elected officials. The ghost employee statute, IC 35-44-2-4, prohibits payment to other city or town employees if they did not properly perform city or town duties assigned and maintain hours as directed by the proper governing body.

In those few instances where elected officials choose to be included in such employee benefit policy (and were included in the authorizing ordinance), the officials must maintain proper attendance records (the same as all other city and town employees) which shall clearly disclose days worked, days missed, type of leave taken, etc. This decision certainly cannot be made just prior to the close of the official's term.

A city or town council is authorized to "grant vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance" to "employees of the political subdivision" pursuant to IC 5-10-4-1. The term "employees" is not defined.

UNPAID PARKING TICKET FINES

If it appears from the records of a court that has jurisdiction to enforce ordinances that regulate parking violations that three (3) judgments concerning a motor vehicle have not been paid before the deadlines established by a statute, an ordinance, or a court order, the clerk of the court shall send a notice to the person who is the registered owner of the motor vehicle. The notice must inform the person of the following:

- (1) That the clerk will send a referral to the bureau of motor vehicles if the judgments are not paid within thirty (30) days after the notice was mailed.
- (2) That the referral will result in the suspension of the motor vehicle's registration if judgments are not paid.

UNPAID PARKING TICKET FINES - (Continued)

A clerk may send a referral to the bureau of motor vehicles if the judgments are not paid not later than thirty (30) days after a notice was mailed. The referral must include the following:

- (1) Any information known or available to the clerk concerning the following of the motor vehicle:
 - (a) The license plate number and year of registration
 - (b) The name of the owner.
- (2) The date on which each of the violations occurred.
- (3) The law enforcement agencies responsible for the parking citations.
- (4) The date when the notice required under IC 9-30-11-3 was mailed.
- (5) The seal of the clerk. (IC 9-30-11-3 and IC 9-30-11-4)

If the city or town enforces parking violations through an ordinance violations bureau, then the city or town attorney would be required to bring action to enforce nonpayment of parking fines in county, city or town court before the provisions of IC 9-30-11 could be used.

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) FUND

The fiscal officer of each city or town in a county in which the county economic development tax is imposed shall establish an economic development income tax fund. The revenue received by a city or town shall be deposited in the unit's economic development income tax fund.

Except as provided in IC 6-3.5-7-15, 23, 25, 26, and 27, revenues from the county economic development income tax may be used as follows:

(1) By a city or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under IC 6-3.5-7-14 for economic development projects, for leases under IC 6-3.5-7-21 or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose at the time the lease was entered into or the bonds were issued.

(2) A city or town may also use CEDIT revenues for the following:

- (A) The construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;
- (B) The retirement of bonds issued under any provision of Indiana law for a capital project;
- (C) The payment of lease rentals under statute for a capital project;
- (D) Contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;
- (E) Operating expenses of a governmental entity that plans or implements economic development projects;

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) FUND – (Continued)

- (F) To the extent not otherwise allowed under IC 6-3.5-6-7, funding substance removal or remedial action in a designated unit; or
 - (G) Funding of a revolving fund established under IC 5-1-14-14.
- (3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.
- (4) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision (5).
- (5) This subdivision applies only in a county having population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20-9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision (4) that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under subdivision:
- (A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city or town.
 - (B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.
 - (C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.
 - (D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.
- (6) This subdivision applies only in a county having population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city or town. The following apply to additional homestead credits provided:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under IC 6-3.5-7-13.6 of this chapter.

An economic development project is any project that:

(1) the county, city, or town determines will:

- (A) promote significant opportunities for the gainful employment of its citizens;
- (B) attract a major new business enterprise to the unit; or
- (C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

- (A) the acquisition of land;
- (B) interests in land;
- (C) site improvements;
- (D) infrastructure improvements;
- (E) buildings;
- (F) structures;
- (G) rehabilitation, renovation, and enlargement of buildings and structures;
- (H) machinery
- (I) equipment;
- (J) furnishings;
- (K) facilities;
- (L) administrative expenses associated with such a project, including contract payments authorized under IC 6-3.5-7(b)(2)(D);
- (M) operating expenses authorized under IC 6-3.5-7-13.1(b)(2)(E); or
- (N) to the extent not otherwise allowed, substance removal or remedial action in a designated unit; or any combination of these.

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) FUND – (Continued)

If there are bonds outstanding that have been issued under IC 6-3.5-7-14 or leases in effect under IC 6-3.5-7-21, a county, city or town may not expend money from its economic development income tax fund for a purpose authorized under IC 6-3.5-7(b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

The fiscal body of a city or town may issue bonds payable from the county economic development income tax. The bonds must be for economic development projects as defined in IC 6-3.5-7-13.1. IC 6-3.5-7-14 lists certain restrictions on setting tax rates sufficient to pay off any bonds.

The executive of a city or town may:

- (1) Adopt a capital improvement plan specifying the uses of the revenues to be received; or
- (2) Designate the county or a city or town in the county as the recipient of all or a part of its share of the distribution.

If a designation is made under (2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

A county, city or town that fails to adopt a capital improvement plan may not receive:

- (1) Its fractional amount of the certified distribution; or
- (2) Any amount designated for the year or years in which the unit does not have a plan. The county treasurer shall retain the certified distribution and any designated distribution for such a unit in a separate account until the unit adopts a plan.

Interest on the separate account becomes part of the account. If the unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to the other units in the county based on property taxes first due and payable to units during the calendar year in which the three (3) year period expires.

A capital improvement plan must include the following components:

- (1) Identification and general description of each project that would be funded by the county economic development income tax.
- (2) The estimated total cost of the project.
- (3) Identification of all sources of funds expected to be used for each project.
- (4) The planning, development, and construction schedule of each project.

A capital improvement plan:

- (1) Must encompass a period of no less than two (2) years; and
- (2) Must incorporate projects the cost of which is at least seventy-five (75%) of the fractional amount certified distribution expected to be received by the county, city or town in that period of time. (IC 6-3.5-7-15)

In making a designation under IC 6-3.5-7-15(a)(2), the executive must specify the purpose and duration of the designation. If the designation is made to provide for the payment of lease rentals or bond payments, the executive may specify that the designation and its duration are irrevocable.